

Remarks/Arguments

The specification has been amended in paragraph [0014] to insert the words “should slip-off” and “cross-over” in the fourth line of the paragraph so that the phrase reads retained shoulder slip-off front cross-over panels Basis appears in the specification on page 10, paragraph [0024] lines 1-4, page 11, paragraph [0026], lines 1-2, and the Figures 1 and 2. The specification has been amended in paragraph [0014] to delete the term “restrictive” as being indefinite.

Paragraph [0017] has been amended on page 8 to delete the term “weaver” and to insert therefore the term – wearer – to correct the informality. Applicant regrets the informality and appreciates the Examiners’ correction.

Paragraph [0017] has been amended on page 8 to insert in line 1 of page 8 the following sentence – The two cross-over breast retention panels 17 and 18 are constructed of angled side edges to form one side of the Vneckline and the bottom of the Vneckline is formed where the panels cross, one over the other, as shown in Figures 1 and 2 –. Basis appears in Figures 1 and 2.

Paragraph [0018] on page 8 has been amended in line 7 to insert the terms – with Vnecklines – after the word “panels” and before the numeral 17 to more clearly describe the panels. Basis appears in the specification on page 10, paragraph [0024], lines 1-2, on page 11, paragraph [0026] lines 1-4, and Figures 1 and 2.

Paragraph [0018] on page 8 has been amended in line 12 to delete the numeral “33” which is not in the figures. The deletion of the numeral “33” overcomes the objection to the figures and overcomes the abandonment of the application. Applicant respectfully submits that deletion of the reference number 33 merely deletes an unnecessary reference number that was confusing and misleading.

Paragraph [0018] last two lines have been amended to delete the following “each layer sewn together to form a unitary breast panel with an opening on the body side” and to insert therefore – the two layers sewn together to form a pocket therein, the inner layer 32 with openings 22 on the body side to provide access for placement of a pad or prosthesis between the layers, – Basis appears in the specification in paragraphs [0018], lines 10-13, and [0020] lines 1-3. Applicant appreciates the Examiner’s suggested terminology.

Paragraph [0019] on page 8, line 1, has been amended to delete the terms “On” and to insert therefore – As shown in Figures 1, an – to refer the description of the invention to the Figure 1, to more clearly define the invention in accordance with the figures.

Paragraph [0019] on page 9, lines 10-11, the term “narrowed” and the phrase “as a retention means” have been deleted as being unclear and confusing.

Paragraph [0020] line 3, has been amended to delete the word “ar” and to insert therefore the word – are – to correct the informality.

Paragraph [0020] line 4, has been amended to delete the words “to comprise a means of” and to insert therefore the term – for – and also to delete the words “holding and supporting” so that the sentence in part reads ... over each breast for positioning a breast pad and prosthesis ... the more clearly to describe the invention.

Paragraph [0021] page 9, lines 2 and 3, has been amended to insert the words – and prosthesis – after the term “pads” in both lines. Basis appears in paragraph [0020].

Paragraph [0021] page 9, line 4, has been amended to add the following – the fabric layers being soft, stretchable, and resilient of cotton with a stretch constituent,

spandex, to hold the breast pads and prosthesis in place – over each breast–. Basis appears in the specification in paragraphs [0026], lines 9-12, [0014] lines 1-3, [0009] lines 1-2, [0025] lines 1-4. The amendment has been made to better describe the invention as it is actually the stretchability and elasticity of the fabrics which hold the breast pads and prosthesis in place.

Paragraph [0022], page 9, lines 1-2, has been amended to connect the terms in that the “scoop” is as “scoop” neckline and not “straps”. Applicant regrets the error and appreciates the opportunity to make the connection.

Paragraph [0024], page 10, line 1, has been amended to delete the quotation marks on “V” by deleting the “V” and inserting therefore – V–. Also the “V” neck” has been deleted and –Vneckline – inserted therefore to more clearly define and describe the invention. Basis appears in the first two lines of paragraph [0024].

Paragraph [0024] has been amended in line 7 to insert the following – by the stretchability and elastic support provided by the stretchable materials of the fabric layers of the panels –. Basis appears in amended paragraphs [0021], [0026], lines 9-12, [0014] lines 1-3, [0009] lines 1-2, [0025] lines 1-4.

Paragraph [0025] lines 5-6, have been amended to delete “by pressure of the breasts against the opening of each breast pad pocket” and to insert therefore the following – by the stretchability and elastic support provided by the stretchable materials of the fabric layers of the panels –. The words “pad pocket liners”, in lines 7-8, have been deleted and the words – retention panel inner layers – inserted therefore to clarify the language. Basis for the above insertions is the same as for paragraph [0024] above.

Paragraph [0025] has been amended in line 9 to delete the term “pockets” and to insert therefore the word – openings – to clarify the terminology.

Paragraph [0026] line 1 has been amended in lines 1, 3, 12 and 13 to delete the terms “V-neck” and to insert therefore – Vneckline – to more clearly describe the invention in conformance with Figures 1 and 2. Also in line 3, the words – as shown in Figures 1 and 2 – have been inserted to refer to the figures. In lines 4 and 5, the description has been amended to read “Two straps 16 are secured to the Vnecklines of the retention panels 17 and 18” to more clearly describe the invention. The deleted words are “two”, “being”, “on”, “Vneck”, “straps”. The insertions are – Two –, – 16 –, – to –, –Vnecklines –.

Also deleted in paragraph [0026] line 5 is “in conjunction with”, and “the”, the term –The – inserted therefore and the numeral –20 – inserted after the word “strap”.

Also in paragraph [0026] line 12, the phrase – as in Figures 1 and 2 – is inserted after the word “garment” to refer to the Figures. Also in line 13 the numeral “10” has been deleted to eliminate possible confusion.

Paragraph [0029] has been amended to delete in line 4 the words “v-neck” and to insert therefore the term – Vneckline – to be consistent with the teachings of the specification.

Claim 1 has been amended to recite the breast retention panels are cross-over shoulder supported shoulder slip-off breast retention panels with Vnecklines and elastic straps incorporated therein. Basis appears in the specification as amended as noted above.

Claim 1 has been amended to recite a seam joining the two breast retention panels to the abdomen covering panel, each cross-over breast retention panel constructed of an angled side edge to form one side of a Vneckline, each said panel crossing over the other. Basis appears in the specification as amended as noted above.

Claim 1 has been amended to delete the terms “sides” and “side” to clarify the claimed subject matter. The term – a—has been inserted to clarify the terminology.

Claim 1 has been amended throughout the claim to clearly specify the antecedent basis for each of the terms used to clarify which element of the claim is referred to.

Claim 2 has been amended to correctly refer to the antecedents of each element in the Claim 2 that is being claimed and to clarify the terminology of the claim.

Claim 7 has been amended to delete the terms referring to the skirt, gown or dress to overcome the objection to the drawings under 35 CFR1.83(a).

Claim 8 has been amended to delete the words as to the center seam to overcome the objection to the drawings under 35 CFR1.83(a).

Claim 9 has been amended to delete the words beginning with “and is secured... and the jointed back covering” to clarify the terminology.

Claim 10 has been amended to delete the word “narrowed” in a “narrowed” hemline in line 4 and the reference “as retention means” in line 3 in that the terminology is not clear as to the meanings of the terms.

Claim 11 has been amended to delete the phrases “comprises a means of”, “holding and supporting”, “alternatively” and “modification of a slit, circular shaped

openings oval” to eliminate the confusion as to the meanings of the terms. The term –
for – has been inserted in line 2 to clarify the claim as to meaning.

Remarks/Arguments (continued)

Drawings

The drawings are objected to because the reference number 33 described in the specification is not in the figures. Applicant submits the specification was amended to delete the number 33 in paragraph [0018]. Applicant submits that the deletion of the number 33 in the specification overcomes the rejection to the drawings because the number 33 is not described in the specification.

The drawings were objected to under 37 CFR1.83.(a) in that the skirt, gown or dress in Claim 7 and the center seam in Claim 8, and the breast pad/prosthesis in Claims 2 and 11 are not shown in the drawings. Applicant submits that Claims 7, 8, 2 and 11 have been amended to cancel these features from the claims.

Applicant accordingly respectfully submits that the objections to the drawings have been overcome.

Specification

The specification is objected to by the Examiner because of the following informalities. On page 8, line 2, "weaver" should read – wearer –.

Page 8, line 2 paragraph [0017] has been amended to correct the word "weaver" to read – wearer –.

On page 8, paragraph 2, line 12, wherein it states "each layer sewn together... etc", the stated phrase has been deleted and the following description inserted therefore – the two layers sewn together to form a pocket therein, the inner layer 32 with an opening 22 on the body side to provide access for placement of a pad or prosthesis between the layers –. As noted above, basis for the amendment appears in paragraph [0018] lines 10-13 and in paragraph [0020] lines 1-3. Applicant appreciates the Examiner's recital of the clear description of the situation.

On page 9, last paragraph, paragraph [0022], the Examiner noted the "scoop" is a "scoop" neckline and not "straps". Paragraph [0022] has been amended to delete the term

“straps” and to insert therefore the term – neckline – to correct the terminology. Applicant regrets the error.

On page 10, paragraph 3, line 7, paragraph [0024], the Examiner indicated the recitation could be better described as staying in place “by the stretchability and elastic support provided by the stretchable materials of the fabric layers of the panels”. Paragraph [0024] has been amended by adding the better description indicated by the Examiner. Basis appears in the specifications in paragraph [0014], last five lines, paragraph [0017], last four lines, and paragraph [0021] as amended. Applicant appreciates the Examiner’s recital of the better description of the situation.

On page 10, last paragraph, line 1, paragraph [0025] the Examiner noted the breast pad pocket openings were described as only “openings” but previously had been described as “circular openings” in paragraph [0020] line 1, and that the description language change can be confusing. Applicant appreciates the Examiner’s notation as to possible confusion. Paragraph [0020] line 1, accordingly, was amended to delete the term “circular” to eliminate the confusion. Applicant appreciates the Examiner’s correction.

Also on page 10, last paragraph, line 4, paragraph [0025], the description of the size of the opening as “holding” the breast pad on prosthesis is not clearly described. Accordingly, the terms “suitably sized” has been deleted to eliminate the possibility of confusion as to size of the opening, since paragraph [0025] in the last two lines, as amended , teaches that variations in the dimensions of the openings are possible without departing from the spirit and scope of the invention.

On page 11, line 2, paragraph [0025] the breast pads are confusingly described as “breast pad pocket liners.” The words “pad pocket liners” are deleted by amendment and the words – retention panel inner layers – inserted therefore to correctly describe the situation. Basis for the amendment appears in the specification in paragraph [0018], second paragraph on page 8, last six lines, wherein the description of the each breast retention panel layers is given.

Applicant regrets the confusion carried by the terms used and appreciates the opportunity to correct the situation.

Applicant respectfully submits that with the correction of the above informalities, the objection to the disclosure has been overcome.

Claim Rejections – 35 USC 112

Claim 1-11 are rejected by the Examiner under 35 USC 112, first paragraph, as failing to comply with the enablement requirement. In regard to Claim 1, it is not clear as to how the “V” neckline is formed as to how the breast retention panels are secured to the abdomen to form a v-neck opening such as whether the panels are attached on an angle or that the panels are constructed of an angled side edge to form one side of a Vneckline and also that one panel crosses over the other and the bottom of the Vneckline is formed at the point where the panels cross.

Applicant respectfully submits that Claim 1 has been amended to recite in reference to the breast retention panels – each said cross-over breast retention panel having an angled side edge to form one side of a Vneckline, each said panel crossing over the other, the bottom of said Vneckline formed at the point where said panels cross –.

Basis for the above recital in Claim 1 is based on Figures 1 and 2 of the specification wherein Figures 1 and 2 show the cross-over breast retention panels having angled side edges to form one side of a Vneckline, each panel crossing over the other, the bottom of said Vneckline formed at the point where said panels cross. The above recital has been added to paragraph [0017] by amendment to conform the written specification with the drawings to satisfy disclosure requirements of 35 USC 112.

Applicant respectfully submits that it is well accepted that the verbal description of the invention contained in the specification may be amended to describe features clearly shown in the drawings and that resort may be to the drawings to cure omissions in the written description.

(In re Kaslow 217 USPQ 1089). Also, it is well recognized that drawings may be relied upon to satisfy the disclosure requirements of 35 USC 112 (In re Berkman 209 USPQ 45).

Additionally, drawings and the specification may be amended to conform one to the other and any added matter is not deemed "new matter" within the prohibition of 35 USC 132 (Application of Heinle 145 USPQ 131), and, merely making explicit that which is clearly in the specification does not constitute new matter (Application of ODA 170 USPQ 268).

Applicant respectfully notes that in the words of Justice Story "the drawings are to be created as part of the written specification, and may be referred to show the nature and character and extent of the claims, as well as to compose part of the description" *Washburn v Gould* 29 Fed. CAS, 312, 318.

Further citation as to above is: drawings may be included in considering compliance with the description of the invention requirement of 35 USC 112 (Application of Barker, 194 USPQ 470, 474).

The Examiner noted that in regard to Claim 10 and as described on page 9, lines 10-12, it is not clear as to what portion or dimension of the "hemline" is narrowed. It is also not clear as to how the hemline acts as a "retention to means".

Applicant respectfully submits that the specification, paragraph [0019] has been amended to delete the term "narrowed" and the term "retention" so the specification reads "a hemline is secured to the lower portion of the abdomen covering panel 14 and the back 12 of garment 10 as a means for positioning and fitting the garment around the nursing mother's body".

Claim 10 accordingly has been amended to delete the phrase "as a retention means". and also the term "narrowed".

Basis appears in the specification in amended paragraph [0019] as noted above.

Applicant respectfully submits that use of a hemline for positioning and fitting a garment in a patent application relies to some extent upon knowledge of a person skilled in the art to

complement that which is disclosed and that the disclosure of an application is deemed to embrace not only that what is expressly set forth in words but what would be understood by persons skilled in the art (Ex Parte Wolters 214 USPQ 735).

Applicant accordingly respectfully submits that with the amendment to delete the terms “narrowed” and “retention”, the disclosure recites a feature understood by a person skilled in the art to which the invention pertains.

In Claim 11 and as described on page 9, paragraph 2, paragraph [0020], it is not clear as to how the “openings” themselves comprise a means of positioning, holding and supporting a breast pad and prosthesis. Applicant submits that paragraph [0020] has been amended to delete the words “to comprise a means of” and to insert therefore the term – for –, and to delete the terms “holding and positioning” so that the sentence in part reads “The openings 22 are suitably positioned to fit over each breast for positioning a breast pad and prosthesis...”.

Claim 11 has also been amended to delete the words “comprises a means of” and to insert therefore the term – for – and to delete the words “holding and supporting” and to delete the term “alternatively” and the words “any modification of a slit, circular shaped opening, oval”.

Claims 1-11 are rejected by the Examiner under 35 USC 112, second paragraph, as failing to particularly point out and distinctly claim the subject matter which applicant regards of the invention. Applicant respectfully submits that Claims 1-11 have amended to overcome the rejection of Claims 1-11 and requests the Examiner to reconsider the rejection as stated above in light of the amended claims.

In regards to Claim 1, the formation of the V-neckline is not clear as discussed above. Applicant submits that Claim 1 has been amended to clarify the formation of the V-neckline. Also in Claim 1, there is no antecedent basis for the “sides” in line 10. Applicant submits that the term “sides” has been deleted in lines 9-10 to clarify that the “sides” are not being claimed but claim the two cross-over should supported shoulder slip off breast retention panels attached to the back panel to form right and left coverings for the right breast and left breast of the

nursing mother, each shoulder supported shoulder slip-off breast retention panel secured to a top of the back covering panel to form shoulder support of the garment.

Also the word –a– is inserted in line 12 after “secured to” in Claim 1.

In lines 14-17, the breast retention panel description has been amended to be consistent with the terminology used throughout Claim 1. Also, an antecedent basis has been provided by amendment for “the seam” previously claimed earlier in Claim 1 in lines 20 and 22.

Also in Claim 1, the Examiner noted in line 25, there was no antecedent basis for “the back covering garment.” Applicant respectfully submits that the word – panel – has been inserted after the word “covering” in line 25 and the term – nursing – inserted after the word “the” and the words – support bra – after the term “garment” to refer back to the “nursing garment and support bra” in line 1 of Claim 1.

In Claim 2, there was no antecedent basis for the “edges” in line 2. Applicant submits that the phrase “at the edges to form inside pockets” has been deleted to eliminate the need for the antecedent basis. Additionally, in Claim 2 the phrase “each opening positioned to be over each breast” as being already claimed in Claim 1 has been deleted.

In Claim 6, the phrase “the arm openings no lower than below the bust line” has been deleted to clarify the Claim language to overcome the rejection as to Claim 6.

In Claim 9, lines 5-7, beginning with “and secured”, the language has already been stated in lines 1-3 of Claim 9. Applicant submits the already stated language has been deleted. Applicant regrets the redundancy and appreciates the opportunity to delete the language.

In Claim 10, the Examiner notes that it is not clear what a “narrowed hemline” encompasses. As noted above, the term “narrowed” has been deleted to clarify Claim 10 as to its meaning.

As regards to Claims 2 and 11, both Claims 2 and 11 have been amended to delete the words relating to a breast pad or prosthesis. In Claim 2, the deleted words are “at the edges to form inside pockets for retention of a breast pad or prosthesis” and “to insert said breast pad or

prosthesis, each opening positioned to be over each breast.” In Claim 11, the deleted words are “comprises a means of positioning, holding and supporting a breast pad and prosthesis,” “alternatively” and “modification of a slit, circular shaped opening, oval.”

Applicant respectfully submits that amendment of Claims 2 and 11, as above, clarifies that a breast pad or prosthesis is not being claimed in combination with the garment and that this amendment clarifies that the garment “means” claim is not being claimed as to how the “opening” holds the pad or prosthesis.

Claim 11 has been amended to delete the term “alternately” to clarify the language as to the “means” and different shapes of the shaped opening.

Applicant notes that Claims 1-11 would be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 112, second paragraph, as set forth in this Office Action.

Applicant respectfully submits that the specification has been amended to correct the formalities listed in this Office Action and to delete the numerical reference “33” which served as the basis for the objection to the drawings.

Applicant respectfully submits that the rejection of Claims 1-11 under 35 U.S.C. 112, first paragraph, as failing to comply with enablement requirement has been overcome by amendment of the specification to contain subject matter described in the amended specification in such a way as to enable one skilled in the art to which it pertains to make and/or use the invention. In reference to Claim 1, Claim 1 has support in the amended specification as to formation of the V-neckline, how the breast retention panels are secured to the abdomen covering panel. The amended specification corrects the “narrowed” hemline in Claim 10 and the openings in Claim 11 as means of positioning, holding and supporting the breast pad or prosthesis whereas it is the elasticity of the fabric.

Applicant accordingly respectfully submits that the objection to the drawings has been overcome, the objection to the disclosure based on the specification has been overcome by

amendment of the specification and the rejections of Claims 1–11 under 35 U.S.C. 112, first paragraph and rejection of Claims 1-11 under 35 U.S.C. 112, second paragraph have been overcome by amendment of the specification and related claims.

Applicant therefore requests that since the specification and Claims 1-11 have been amended to overcome the above rejections, the application and Claims 1-11, as amended, be determined to be allowable.

Applicant notes the prior art of record and not relied upon is considered pertinent to its applicant's disclosure.

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